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In re Application of SHELLEY et al :
U.S. Application No.: 10/511,008 :
PCT Application No.: PCT/AU03/00417 :
Int. Filing Date: 07 April 2003 :
Priority Date Claimed: 05 April 2002 : DECISION
Attorney Docket No.: 400100 :
For: PROCESS AND APPARATUS FOR USE IN :
PREPARING AN AQUEOUS MAGNESIUM :
BICARBONATE SOLUTION :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 12 October 2004.

BACKGROUND

On 07 April 2003, applicant filed international application PCT/AU03/00417, which claimed priority of an earlier Australia application filed 05 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 October 2004.

International application PCT/AU03/00417 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.



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